

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**RYAN SHOUBE and SANDRA  
SHOUBE**  
*Plaintiffs,*

**v.**

**STATE FARM LLOYDS**  
*Defendant.*

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**CIVIL ACTION NO. \_\_\_\_\_**

**JURY**

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**DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL**

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Defendant State Farm Lloyds ("State Farm") files this Notice of Removal, because diversity of citizenship jurisdiction exists under 28 U.S.C. § 1332.

**PROCEDURAL BACKGROUND**

1. Plaintiffs Ryan and Sandra Shoupe filed this action on November 18, 2019, against State Farm in the 55th Judicial District Court of Harris County, Texas. The case was docketed under cause number 2019-83288 (the "State Court Action").
2. State Farm was served with citation and Plaintiffs' Original Petition on November 20, 2019, and a representative of State Farm received the citation and Plaintiff's Original Petition on the afternoon of November 22, 2019. The statutory deadline to remove this action under 28 U.S.C. § 1446(b)(1) is 30 days after Defendant's receipt of the initial pleading.
3. An inadvertent mistake, however, was made after a representative of State Farm received the suit papers, which resulted in the unintentional failure to route the citation

and Plaintiff's Original Petition to counsel. State Farm discovered on the morning of December 24, 2019, that excusable neglect had caused counsel not to receive the citation and Plaintiff's Original Petition. Immediately upon discovery State Farm retained counsel, and counsel answered the lawsuit in State Court and filed this Notice of Removal. State Farm will separately seek extension of time for the filing of this Notice of Removal under FRCP 6(b)(1)(B) after it has an opportunity to conference with counsel for Plaintiff regarding that motion.

4. State Farm files this Notice of Removal pursuant to 28 U.S.C. § 1446 to remove the State Court Action from the 55th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

5. State Farm filed its Original Answer in the State Court Action on December 24, 2019.

#### **NATURE OF THE SUIT**

6. This lawsuit involves a dispute over the handling and alleged under-payment of Plaintiffs' claim for damages allegedly caused by a wind storm that occurred on or about September 2, 2017.<sup>1</sup> Plaintiffs assert causes of action against State Farm for: (1) breach of contract, (2) violations of the Texas Insurance Code, and (3) breach of the duty of good faith and fair dealing.<sup>2</sup>

#### **BASIS FOR REMOVAL**

7. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all parties, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

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<sup>1</sup> *Exhibit B2*, Plaintiffs' Original Petition, Section VI, ¶¶ 10-34.

<sup>2</sup> *Id.* at Section VII, ¶¶ 35-47.

**A. Diversity of Parties**

8. Removal is proper because there is and was complete diversity between the parties under 28 U.S.C. § 1332 both at the time of the filing of Plaintiffs' Original Petition and at the time of Defendant's removal to this Court.

9. Plaintiffs were, at the time of filing this lawsuit, and still are, citizens of Harris County, Texas and reside in Harris County, Texas.

10. State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyds Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes.<sup>3</sup>

**B. Amount in Controversy**

11. Plaintiffs seek damages in an amount greater than \$200,000.00, but not more than \$1,000,000.00.<sup>4</sup> Accordingly, the "amount in controversy" requirement of 28 U.S.C. § 1332(a) is satisfied.

**REMOVAL IS PROCEDURALLY CORRECT**

12. This notice of removal is timely under 28 U.S.C. § 1446(b). State Farm was served with process on November 20, 2019.

13. Venue is proper in this division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

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<sup>3</sup> See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

<sup>4</sup> *Exhibit B2*, Plaintiffs' Original Petition, ¶ 5.

14. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon State Farm in the State Court Action are attached to this notice as Exhibit B.

15. Additionally, all documents required by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A.

16. Pursuant to 28 U.S.C. 1446(d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the clerk of the 55th Judicial District Court of Harris County, Texas.

### **JURY DEMAND**

17. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, State Farm respectfully demands a trial by jury.

### **PRAYER**

Defendant respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. Defendant also requests any additional relief to which it may be entitled.

Respectfully submitted,

**NISTICO, CROUCH & KESSLER, P.C.**

By: /s/ M. Micah Kessler  
M. Micah Kessler  
State Bar No. 00796878  
S.D. Tex. I.D. 21206  
1900 West Loop South, Suite 800  
Houston, Texas 77027  
Telephone: (713) 781-2889  
Telecopier: (713) 781-7222  
Email: [mkessler@nck-law.com](mailto:mkessler@nck-law.com)  
**COUNSEL FOR DEFENDANT,**  
**STATE FARM LLOYDS**

**OF COUNSEL:**

Morgan Y. Bird  
State Bar No. 24109646  
S.D. Tex. I.D. 3362863  
Email: [mbird@nck.com](mailto:mbird@nck.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was duly served upon counsel of record by U.S. Mail, certified return receipt requested, and electronic service on December 24, 2019, as follows:

Hunter M. Klein  
Robert D. Green  
Green & Klein  
440 Louisiana Street, Suite 1900  
Houston, Texas 77002  
Telephone: (713) 654-9222  
Facsimile: (713) 654-5255  
**VIA EMAIL: [KLEIN@GREENTRIALLAW.COM](mailto:KLEIN@GREENTRIALLAW.COM)**  
**[GREEN@GREENTRIALLAW.COM](mailto:GREEN@GREENTRIALLAW.COM)**  
**AND CMRRR – 7019 1120 0000 4683 8503**

/s/ M. Micah Kessler  
M. Micah Kessler